

REMARKS

The present application is subject to a Rule 114 Request for Continued Examination (RCE). In an Advisory Action dated July 25, 2008, the Examiner advised that the amendment after final filed July 10, 2008 did not place the application in condition for allowance for the reasons set forth in the April 10, 2008 final Office Action. In response to the Advisory Action, an RCE was filed to obtain consideration of an information disclosure statement (IDS) filed concurrently with the RCE.

By this preliminary amendment, new claims 39-44 have been added to provide a fuller scope of coverage. Claims 1, 3, 4, 6-8, 31-35 and 37-44 are currently pending in this application.

Applicants respectfully submit that claims 1, 3, 4, 6-8, 31-35 and 37-44 patentably distinguish from the prior art of record.

Applicants incorporate herein by reference all of the arguments presented in the July 10, 2008 amendment after final traversing the prior art rejections of claims 1, 3, 4, 6-8, 31-35, 37 and 38. Applicants present additional arguments below.

In the "Response to Arguments" set forth on pages 9 and 10 of the April 10 final Office Action, the Examiner contends that the secondary references to Hamamura and Matsui teach the specific processing and observing steps recited in

independent claims 1 and 5 and which are lacking in the primary reference to Yamashita. The Examiner further contends that the motivation for modifying Yamashita in view of Hamamura and Matsui includes improving the resolution image produced by the method of Yamashita. Applicants respectfully disagree with the Examiner's contentions.

The Examiner contends that Hamamura teaches steps of processing and observing utilizing corresponding devices and apparatuses disposed in a single vacuum chamber. However, while teaching various devices and apparatuses (e.g., scanning ion microscope, positive ion beam supply means 20, contact probe 30) disposed in a vacuum chamber 5 (Fig. 1), Hamamura does not teach the specific apparatuses and devices disposed in the single vacuum chamber for performing the specific steps recited in independent claims 1 and 5. For example, Hamamura discloses a focused ion beam lens column which corresponds to a scanning ion microscope SIM that is used for observation. Thus the SIM of Hamamura is not a scanning probe microscope (SPM). Likewise, the contact probe 30 of Hamamura is not a probe of an SPM and the positive ion beam supply means 20 is not for observing a specimen. Accordingly, Hamamura does not teach the specific second step recited in independent claim 1 which requires observing the target cross-section by scanning the target cross-section with a probe of a scanning probe microscope in the vacuum chamber and detecting a physical quantity produced in the probe and the target cross-section.

With respect to Matsui, while this reference teaches combining a FIB device with a microscope as a single apparatus, as recognized by the Examiner the reference does not teach the use of these devices in a single vacuum chamber for performing the specific processing and observation steps recited in independent claims 1 and 5.

Moreover, the Examiner's stated motivation is improper and does not support the proposed modification of Yamashita in view of the secondary references. For example, the structure and function of the components (e.g., SIM, contact probe, and positive ion beam supply means) of Hamamura's apparatus are not conducive to the improvement of the resolution image in Yamashita.

New claims 39-44 depend on and contain all of the limitations of independent claim 1 and, therefore, distinguish from the prior art of record at least in the same manner as set forth above for independent claim 1.

In view of the foregoing amendments and discussion,
the application is now believed to be in condition for
allowance. Accordingly, favorable reconsideration and
allowance of the claims are most respectfully requested.

Respectfully submitted,

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